

MEMORANDUM

April 7, 2003

TO: County Council

FROM: Michael Faden, Senior Legislative Attorney

SUBJECT: ***Introduction:*** Bill 11-03, Taxes – Excise - Video Rental and Sale

Councilmember Floreen expects to introduce Bill 11-03, *Taxes – Excise – Video Rental and Sale*, on April 8. Bill 11-03 would establish an excise tax on the privilege of engaging in certain transactions involving prerecorded video tapes, video discs, video games, and similar items. The tax would be levied at the rate of 50¢ for each sale or rental to a consumer of a prerecorded video tape, video disc, video game, or similar item. Funds from this tax, estimated roughly at \$1 million a year, would be set aside for current revenue contributions to school capital improvements.

The Council has tentatively scheduled a public hearing on Bill 11-03 on April 28 at 7 p.m.

This packet contains:

Bill 11-03

Legislative Request Report

© number

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Bill No. 11-03
Concerning: Taxes – Excise - Video
Rental and Sale
Revised: 4-7-03 Draft No. 3
Introduced: April 8, 2003
Expires: October 8, 2004
Enacted: _____
Executive: _____
Effective: September 1, 2003
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Floreen

AN ACT to:

- (1) establish an excise tax on the privilege of engaging in certain transactions involving prerecorded videotapes, videodiscs, video games, and similar items;
- (2) specify procedures for payment and collection of the tax; and
- (3) generally provide for an excise tax on certain media that convey prerecorded images.

By adding

Montgomery County Code
Chapter 52, Taxation
Section 52-16D

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Chapter 52 is amended by adding Section 52-16D:

52-16D. Video Rental Tax.

- (a) Any person who furnishes to the general public any prerecorded videotape, videodisc, video game, or similar medium that conveys prerecorded images, must pay to the County an excise tax on the privilege of engaging in the business of video rental and sale. The tax must be paid at the rate of 50 cents when each such item is sold, rented, or otherwise transferred to a consumer.
- (b) This tax does not apply to:
 - (1) any product or service for which a franchise fee is collected under Chapter 8A; and
 - (2) the rental or sale of motion picture film, videotape, or similar products to a person who is regularly and ordinarily engaged in the business of showing or broadcasting films or tapes to the general public.
- (c) The County Council by resolution, after a public hearing advertised under Section 52-17(c), may increase or decrease the rate of this tax.
- (d) Every person liable for the tax must pay the tax and must report on such forms and include such information as the Director of Finance prescribes. The report and payment of the tax must be made on or before the fifteenth day of each month for the preceding calendar month. Any person liable for the tax may, with the consent of the Director of Finance, file reports and remit the tax on a quarterly basis instead of monthly. Any quarterly report and remittance must be filed on or before the fifteenth day of April, July, October and January in each year, and must cover the 3 preceding months.

- (e) If any person does not remit the tax required to be paid or file the return with the Director as required by this Section, that person is liable for:
- (1) interest on the tax due at the rate of 1 percent per month for each month or part of a month after the date when the tax is due; and
 - (2) a penalty of 5 percent of the amount of the tax per month or part of a month, not to exceed a total of 25 percent of the tax. The interest and penalty is collected as a part of the tax.
- (f) If any person does not file any report and remittance required by this Section, the Director must obtain information on which to base the Director's estimate of the tax due. As soon as the Director obtains sufficient information on which to estimate any tax due, the Director must assess against the person the applicable tax and penalties. The Director must notify the person by mail sent to the person's last-known place of address of the total amount of the tax, interest and penalties. The total amount is payable within 10 days after the date of the notice.
- (g) Every person liable for the payment of any tax must keep and preserve, for 2 years, suitable records necessary to determine the amount of the tax for which that person may have been liable. The Director may inspect those records at any reasonable time.
- (h) If any person subject to this tax stops doing business or otherwise disposes of the business or stock in trade, any tax payable under this Section is immediately due, and the person must immediately file a report and pay any tax due.

- (i) Any violation or failure to comply with this section is a class A violation. Each violation is a separate offense. A conviction does not relieve any person from the payment, collection or remittance of the tax.

Sec. 2. Effective Date. Section 52-16D, added by Section 1 of this Act, takes effect on September 1, 2003.

Sec. 3. Allocation of Revenue.

The Council intends to allocate the revenue from the tax established under Section 52-16D, enacted in Section 1 of this Act, as a source of current revenue funds for capital improvements to County public schools.

Approved:

Michael L. Subin, President, County Council

Date

Approved:

Douglas M. Duncan, County Executive

Date

This is a correct copy of Council action.

Mary A. Edgar, CMC, Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Bill 11-03

Taxes- Excise – Video Rental and Sale

DESCRIPTION:	Establishes an excise tax on the business of transferring through rental or sale pre-recorded videotapes, video discs, video games, and similar media. The tax rate is initially set at 50¢ per rental or sale, and the Council may lower or raise the rate by resolution.
PROBLEM:	The County admissions and amusement tax applies to motion picture showings but not to the sale or rental of prerecorded motion pictures and similar entertainment items.
GOALS AND OBJECTIVES:	To raise revenue by reducing the tax gap between motion picture showings and sale or rental of prerecorded motion pictures and similar items.
COORDINATION:	Department of Finance
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	To be requested.
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Michael Faden, Senior Legislative Attorney , 240-777-7905
APPLICATION WITHIN MUNICIPALITIES:	County tax and revenue laws apply Countywide.
PENALTIES:	Class A for failure to pay tax or submit returns.